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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,576	08/20/2003	Connie Sanchez	05432/100M919-US5	5194
7278	7590	06/23/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			CHONG, YONG SOO	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/644,576

Applicant(s)

SANCHEZ ET AL.

Examiner

Yong S. Chong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/14/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/10/04</u> <u>1/5/04</u> <u>8/5/04</u>                                   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Status of the Application***

This Office Action is in response to applicant's petition filed on September 14, 2004. Claims 1-19 have been cancelled. Claims 20-37 have been added. Claims 20-37 are pending and are examined herein.

### ***Specification***

The disclosure is objected to because of the following informalities: the structure of escitalopram is incorrect in that the side chain contains one too many carbons.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham vs John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 20-37 are rejected under 35 U.S.C. 103(a) as being obvious over Boegesoe et al. (US Patent 4,943,590) and further in view of Bogeso et al. (US Patent Application Publication 2002/0103249 A1) and Shaller et al. (J. Neuropsychiatry and Clinical Neurosciences, 11:4, Fall 1999, abstract).

The instant claims are directed to a method of treating attention deficit hyperactivity disorder by administering escitalopram.

Boegesoe et al. teach the method of treating depression in a patient with the (+) enantiomeric form of citalopram, otherwise referred to as escitalopram, by inhibiting the uptake of serotonin (col. 1, lines 9-26). Acceptable pharmaceutical salts of escitalopram include oxalate (col. 1, lines 29-42). What's more, daily dosage of escitalopram is disclosed to be from 5 to 50 mg (col. 8, lines 55-60). However, Boegesoe et al. fail to disclose a method of treating attention deficit hyperactivity disorder with escitalopram.

Bogeso et al. teach a method of treating a variety of anxiety disorders including depression and attention deficit hyperactivity disorder (paragraph 0017), by inhibiting the uptake of serotonin (paragraph 0015) by administering a composition, which comprises escitalopram (paragraph 0050). Moreover, Shaller et al. teach that attention deficit hyperactivity disorder increases one's risk for both major depression and an anxiety disorder by approximately 25%.

Therefore, it would have been prima facie obvious to a person of ordinary skill in the art, at the time the claimed invention was made, to administer patients suffering from attention deficit hyperactivity disorder an effective amount of escitalopram,

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because both attention deficit hyperactivity disorder and depression are treatable by inhibiting the uptake of serotonin. Treating a patient suffering from depression with escitalopram will also treat the same patient who is suffering from attention deficit hyperactivity disorder.

A person of ordinary skill in the art would have been motivated to administer escitalopram to patients suffering from attention deficit hyperactivity disorder, because of the expectancy of the same amount of success when treating patients suffering from depression with escitalopram.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong S. Chong whose telephone number is (571)-272-8513. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SREENI PADMANABHAN can be reached on (571)-272-0629. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YSC

  
SHENGJUN WANG  
PRIMARY EXAMINER